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EXAMINER	
VU, TUAN A	
ART UNIT	PAPER NUMBER
2124	14

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/547,539	Applicant(s) SMITH ET AL.	
	Examiner Tuan A Vu	Art Unit 2124	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 September 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-68* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-68* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1. This action is responsive to the Applicant's response filed September 5, 2003. As indicated in Applicant's response, claims 1, 19, 34, 48, 56 have been amended. Claims 1-68 are pending in the office action.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-3, 6, 10-14, 16-18, 19, 22-29, 33-37, 39, 43-44, 46-47, 50, 56-58, 65, 66, and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishizuka et al., USPN: 5,313,635 (hereinafter Ishizuka).

As per claim 1, Ishizuka discloses a compiling system having method steps of:

transmitting compilation information from a first subsystem to a second subsystem (col. 2, lines 42-62);

compiling computer program code on the second subsystem based on the compilation information received from the first subsystem (col. 2, lines 62-68; col. 5, lines 17-30; Fig. 7), including at least compilation instructions related to the particular machine-executable code required by the first subsystem (e.g. steps *52, 54-61*, Fig. 5b – Note: gathering information such as language name, compile command, source file, library-installed machine information, name of client host is equivalent to instructions related to a specific machine code required by the first subsystem) to the second subsystem; and

receiving the compiled code from the second subsystem into the first subsystem (col. 3, lines 18-23).

But Ishizuka does not explicitly specify that the step of compiling in the second subsystem generates machine-executable code. However, Ishizuka's clearly shows that an object file is an executable format (S12/*a.out*, S11/*execution format: a.out* -- Fig. 8 – Note: a.out is the default output file from running an executable like C programs) when Ishizuka discloses returning an object file to the requesting client (e.g. col. 3, lines 14-19; Fig. 5a-b) after collecting all machine-specific information (Fig. 5a) to generate such object file to alleviate burden on the requesting client machine (e.g. col. 1, line 53 to col. 2, line 21). Hence, it is noted that Ishizuka has at worst hinted that the code delivered is a machine-executable form. Besides, gathering libraries to generate object modules for linking into an executable is a known concept at the time the invention was made; and the concept of binding libraries with object code is taught by Ishizuka (col. 7, lines 16-22). Just in case the delivered object file from Ishizuka's compiler-installed server has not already been produced in a machine-executable form, it would have been obvious for one of ordinary skill in the art at the time the invention was made to adjust Ishizuka's method of compilation so that the generated object file as disclosed would be linked into a machine-executable based on the information provided by the first subsystem because this would yield a code in ready form for execution/use by the first subsystem without additional resources usage from the part of the latter, hence improve time and resources efficiency as well as extensibility (Ishizuka: col. 2, lines 32-39; col. 7, lines 22-30).

As per claim 2, Ishizuka further discloses in the method of claim 1 that the step of transmitting compilation information includes transmitting compilation information from a first

subsystem to a second subsystem in response to a request to compile computer program code into machine-executable code (col. 2, line 59 to col. 3, line 14; Fig. 7).

As per claim 3, in method of claim 1 above Ishizuka further discloses the step of transmitting of compilation information by the first subsystem to the second subsystem (col. 3, lines 9-14; col. 4, lines 54-60; Fig. 7); but does not disclose that such transmitted compilation information is in intermediate language code. However, at the time the invention was made, the use of intermediate code, e.g. Java bytecodes, as a platform-independent software program form to be transmitted across multi-host environments/networks for machine-specific compilation into executable code is a well-known concept. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Ishizuka's step of transmitting compiling information so that, instead of just providing platform-specific information and program-related source and libraries data, the intermediate form of program code having cross-platform property therein would be transmitted, whenever available, by the first subsystem to the second subsystem for compilation because it would relieve both subsystems from allocating and storing machine-specific resources/utilities.

As per claim 6, Ishizuka discloses that the step compiling computer program code from claim 1 above includes compiling program code on the second subsystem based on the compilation information received from the first subsystem (e.g. col. 2, lines 42-58); but does not teach that such compilation step compiles intermediate code into machine-executable code. However, one of ordinary skill in the art at the time the invention was made would recognize the obvious implementation of a machine-executable form in the resulting compiled code and intermediate language code for cross-platform distribution/compilation; the rejections for which

limitations have been set forth in claims 1 (machine-executable) and 3 (intermediate language), respectively, above. Therefore, it would have been obvious.

As per claims 10, 11, and 12, Ishizuka does not expressly disclose in the method in claim 1 above the using of the machine-executable code in the first subsystem (re claim 10); such using step includes storing the machine-executable code on the first subsystem (re claim 11) and executing the machine-executable code on the first subsystem (re claim 12). However, in view of the admitted prior art as disclosed via col. 1, lines 13-29 and Fig. 10, it would have been obvious for one ordinary skill in the art at the time the invention to recognize the obvious anticipation of the above limitations in Ishizuka's system/method because the purpose of obtaining an machine-executable code by a subsystem from another subsystem is for the former being able to possess and use, i.e. obviating the need for further quest of, that code.

As per claims 13, and 14, Ishizuka according to the method of claim 1 discloses that the step of transmitting includes transmitting compilation information and computer program code from a first subsystem to a second subsystem (re claim 13 -- col. 3, lines 9-14; col. 4, lines 56-60); that before the step of compiling, the step of retrieving computer program code for compilation into machine-executable code (re claim 14 -- col. 5, line 51 to col. 6, line 7; Fig. 8).

As per claim 16, Ishizuka according to the method of claim 1 discloses that the step of compiling includes decoding the compilation information (col. 6, lines 18-32; col. 7, lines 6-22; Fig. 7).

As per claim 17, Ishizuka according to the method of claim 1 discloses that the step of transmitting compilation information from a first subsystem to a second subsystem includes transmitting compilation information from a first subsystem to a second subsystem wherein the

first and second subsystems are components of a single system (Figs. 8-9).

As per claim 18, Ishizuka according to the method of claim 1 discloses that the step of transmitting includes transmitting compilation instructions (*compile command*) from a first subsystem to a second subsystem (e.g. col. 4, lines 30-44; col. 6, lines 36-44).

As per claim 19, Ishizuka discloses a first subsystem for compiling program code for execution in a second subsystem having method steps of:

receiving compilation information from the second subsystem (col. 2, lines 59-62; col. 3, lines 1-18), including at least compilation instructions related to the particular machine-executable code required by the second subsystem (e.g. steps *52, 54-61*, Fig. 5b – Note: the second subsystem gather the compiling instructions first before sending to the compiler-installed first subsystem) ;

compiling computer program code based on the compilation information received from the second subsystem (col. 2, lines 62-68; col. 5, lines 17-30; Fig. 7); and

transmitting the compiled code to the second subsystem (col. 3, lines 18-23).

But Ishizuka does not explicitly disclose that the first subsystem step of compiling code to be transmitted to the second subsystem generates machine-executable code. However, the rejection for which limitation has been set forth in claim 1 above.

As per claim 22, Ishizuka in the method of claim 19 above discloses that the compiling by the first subsystem is based on the compilation information received from the second subsystem (col. 5, lines 17-30) but does not teach that the step of compiling computer program code includes compiling intermediate language code into machine-executable code. However, the rejections for which limitations have been set forth in claims 1 (machine-executable) and 3

(intermediate language), respectively, above. Therefore, it would have been obvious.

As per claims 23 and 24, Ishizuka discloses in the method of claim 19 above that the step of receiving includes receiving compilation information and computer program code from the second subsystem (re claim 23 -- col. 3, lines 9-14; col. 4, lines 56-60); and that the method further comprises before the step of compiling, retrieving computer program code for compilation into machine-executable code (re claim 24 -- col. 5, line 65 to col. 6, line 7; Fig. 8).

As per claim 25, Ishizuka discloses in the method of claim 24 above that the step of retrieving computer program code includes retrieving computer program code from the first subsystem (col. 5, line 51 to col. 6, line 7; Fig. 8).

As per claim 26, Ishizuka discloses in the method of claim 19 above that the step of compiling includes decoding the compilation information (col. 6, lines 18-32; col. 7, lines 6-22; Fig. 7).

As per claim 27, Ishizuka discloses a method in a second subsystem for offloading compilation to a first subsystem having a program code compiler, the method comprising:

transmitting compilation information to the first subsystem (col. 2, lines 42-62), including at least compilation instructions related to the particular machine-executable code required by the second subsystem to the first subsystem (e.g. steps *52, 54-61*, Fig. 5b – Note: the second subsystem gather the compiling instructions first before sending to the compiler-installed first subsystem); and

receiving machine-executable code, compiled from the compilation information, from the first subsystem (e.g. Fig. 7; col. 2, lines 42-58; col. 3, lines 18-23).

But Ishizuka does not expressly disclose that the compiled code received by the second

subsystem from the first subsystem is machine-executable code. However, such limitation has been set forth and addressed in claim 1 above.

As per claims 28 and 29, in reference to the method of claim 27 above, Ishizuka further discloses that the step of transmitting compilation information includes transmitting compilation information in response to a request to compile computer program code into machine-executable code (re claim 28 – col. 3, lines 9-14; Fig. 7); but does not teach that the step of transmitting compilation information includes transmitting compilation information written in intermediate language code (re claim 29). However, such limitation has been set forth and addressed in claim 3 above; therefore, it would have been obvious.

As per claim 33, in reference to the method of claim 27 above, Ishizuka further discloses that the step of transmitting includes transmitting compilation information and computer program code to a first subsystem (col. 3, lines 9-14; col. 4, lines 56-60).

As per claim 34, Ishizuka discloses a computer system for executing a computer process for offloading compilation, the computer process comprising the same process steps including

sending (from a first subsystem);

compiling (on the second subsystem); and

receiving (into the first subsystem) as recited in claim 1 above; therefore, the same rejection used in claim 1 still apply here.

Furthermore, Ishizuka does not disclose a program storage computer-readable medium for executing the computer process. However, one of ordinary skill in the art would recognize the need for a readable medium used to carry out the functionality of Ishizuka's system. Therefore, it would have been obvious for one of ordinary skill in the art at the time the

invention was made to implement a computer-readable medium to store and encode the computer program instructions for executing the computer process disclosed by Ishizuka because every product is designed to be taken where it can be used hence necessitates to be embodied in a concrete medium for distribution and sale.

As per claims 35, 36, 39, 43, 44, 46, 47, Ishizuka discloses in the computer process of claim 34 the step of sending, or compiling as having the same limitations set forth in claims 2, 3, 6, 13, 14, 16, and 18 respectively; therefore, the same rejections used in claims 2, 3, 6, 13, 14, 16, and 18, respectively, still apply here.

As per claim 48, Ishizuka discloses a system for offloading compilation, the apparatus comprising

a transmit module that transmits compilation information from a first subsystem to a second subsystem (col. 2, lines 42-62) including at least compilation instructions related to the particular machine-executable code required by the second subsystem to the first subsystem (e.g. steps *52, 54-61*, Fig. 5b);

a compile module that compiles program code into machine-executable code on the second subsystem based on the compilation information received from the first subsystem (e.g. Fig. 7; col. 2, lines 62-68; col. 5, lines 17-30); and

a receive module that receives the machine-executable code from the second subsystem into the first subsystem (e.g. col. 3, lines 18-23).

But Ishizuka does not disclose that the step of compiling in the second subsystem generates machine-executable code. However, such limitation has been set forth and addressed in claim 1 above; therefore, it would have been obvious.

As per claim 49, in reference to the system of claim 48 Ishizuka further discloses the transmit module as having the same limitations as seen in claim 28 above; therefore, the same rejection used in claim 28 still applies here.

As per claim 50, in reference to the system of claim 48 Ishizuka further discloses the compilation information as having the same limitations as seen in claim 29 above; therefore, the same rejection used in claim 29 still applies here.

As per claim 56, Ishizuka discloses a computer system for executing a computer program, the computer program having instructions for executing a computer process for offloading compilation, the computer process comprising the same steps of

sending (from a first subsystem);

compiling (on the second subsystem); and

receiving (into the first subsystem) as recited in claim 34 above; therefore, the same rejection used against the respective limitations in claim 34 still apply here.

But Ishizuka does not disclose a computer data signal embodied in a carrier wave readable by a computing system and encoding program instructions to carry out the computer process as depicted above. However, one of ordinary skill in the art at the time the invention was made would recognize the need for a readable carrier wave medium for storing instructions to carry out the functionality of Ishizuka's system. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to implement a computer-readable carrier wave to embody the computer data signal and encode the computer program instructions for executing the computer process disclosed by Ishizuka because it would facilitate a faster, more convenient and widespread distribution/dissemination of computer program signal

encoding the program process instructions to/for the benefit of a wider pool, e.g. via the internet, of recipients intended for the use/access of such computer program/product.

As per claim 57, in reference to the system of claim 56 above, Ishizuka further discloses the step of sending as having the same limitations as claim 35; therefore, the same rejection used in claim 35 still applies here.

As per claim 58, in reference to the system of claim 57 above, Ishizuka further discloses the step of sending as having the same limitations as claim 36; therefore, the same rejection used in claim 36 still applies here.

As per claims 61, 65, 66, and 68, in reference to the system of claim 56 above, Ishizuka further discloses the step of sending, or compiling as having the same limitations as set forth in claims 39, 43, 44, and 46, respectively; therefore, the same rejections used in claims 39, 43, 44, and 46 still apply.

4. Claims 7-9, 15, 30-32, 40-42, 45, 53-55, 62-64, and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishizuka et al., USPN: 5,313,635 as applied to, respectively, claims 1, 14, 27, 34, 44, 48, 56, and 66 above, and further in view of Balassanian, USPN: 6,324,684 (hereinafter Balassanian).

As per claims 7, 8 and 9, and in reference to claim 1 above, Ishizuka does not disclose prior to receiving the machine executable code, the step of detecting whether the second subsystem is a trusted source (re claim 7); that such detecting includes using a receipt policy to detect whether the second subsystem is a trusted source (re claim 8); and that such detecting includes detecting of whether the first and second subsystem are connected via a secure link(re claim 9). However, Balassanian, in a similar system having method step of generating

executable code by a second subsystem upon request from a first subsystem, teaches that a detection process is in place for checking if the second subsystem is a trusted source prior to sending the executable to the first subsystem (col. 6, lines 10-21; lines 35-42), a policy is in place to detecting that trusted source which sends the executable (col. 54, lines 54-65), and such detection process is to further detect that both first and second system are connected via a secure link(col. 2, lines 10-17; col. 6, lines 29-36; Fig. 1). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to add to Ishizuka's compiling method both the detection of trusted sources of executables being sent and establishing of policies in regard to detecting trusted links and receipt of executables across the subsystems involved as taught by Balassanian because this allows more secure transactions or safer acquisitions of data between the subsystems involved therein; and provides added trust and security in the access or execution of programs resulting from those transactions in those subsystems' local environment.

As per claim 15, and in reference to claim 14 above, Ishizuka discloses before the step of compiling, a step of retrieving computer program code for compilation but does not teach that the step of retrieving includes retrieving program code from a third subsystem. However, Balassanian, in a similar system having method step of generating executable code by a second subsystem upon request from a first subsystem, teaches that the retrieving of program code for compilation in the second subsystem includes retrieval of computer program code from a third subsystem (e.g. col. 4, lines 10-13, lines 50-55; Fig. 1). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to include the step of retrieving program code/components by the second subsystem from a third subsystem as taught

by Balassanian to Ishizuka's system because this will relieve the second subsystem from the burden of allocating large local resources for storing as many program codes/compilation information as needed to provide for all compilation requests from different platforms; thereby possibly improve the turn-around time for fulfilling requests from related components within a network.

As per claims 30, 31 and 32, and in reference to claim 27 above, Ishizuka does not disclose prior to receiving the machine executable code, the same step limitations as set forth and addressed by the combination of Ishizuka and Balassanian, respectively in claims 7, 8 and 9 above. Therefore, with respect to the rejections set forth in those claims, it would have been obvious.

As per claims 40, 41 and 42, and in reference to claim 34 above, Ishizuka does not disclose prior to receiving the machine executable code, the same step limitations as set forth and addressed by the combination of Ishizuka and Balassanian, respectively in claims 7, 8 and 9 above. Therefore, with respect to the rejections set forth in those claims, it would have been obvious.

As per claims 45 and 67, and in reference to claims 14 and 66, respectively, from above, Ishizuka does not disclose the same step limitations as set forth and addressed by the combination of Ishizuka and Balassanian, in claim 15 above. Therefore, with respect to the rejections set forth in that claim, it would have been obvious.

As per claims 53, 54 and 55, in reference to the system of claim 48, Ishizuka does not disclose the same step limitations as set forth and addressed by the combination of Ishizuka and Balassanian, respectively in claims 7, 8 and 9 above; therefore, it would have been obvious.

As per claims 62, 63 and 64, in reference to the computer process of claim 56 above, Ishizuka does not the same step limitations as set forth and addressed by the combination of Ishizuka and Balassanian, respectively in claims 7, 8 and 9 above; therefore, it would have been obvious.

5. Claims 4-5, 20-21, 37-38, 51-52, and 59-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishizuka et al., USPN: 5,313,635 as applied to, respectively, claims 1, 19, 34, 48, and 56 above, and further in view of Brewer, USPN: 6,295,645 (hereinafter Brewer).

As per claim 4, Ishizuka in the offloading compilation method of claim 1 does not disclose that the step of transmitting compilation information includes transmitting compilation information from a small device to a second subsystem. However, Brewer in a method step for downloading executables analogous to that of Ishizuka's method teaches the transmitting of compilation information being performed by small device to the second subsystem (col. 20, lines 58-67, 36-44; col. 21, line 25 to col. 22, line 31). One of ordinary skill in the art would infer the amount of communication involving the network server and the portable/embedded processor of the mobile electronic device as above-taught by Brewer in order for the latter to obtain the suitable native codes, hence would recognize that the above limitation has been anticipated. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to include into Ishizuka's system/method for providing executables to requesting client host machines the above transmission of requests and reception of executables by a small device so taught by Brewer because of the need to comply to increasing popularity and functionality of hand-held devices and the technological demands in communications involving the internet and embedded processors represented by those small devices.

As per claim 5, and with respect to the offloading compilation method of claim 4 above, Ishizuka does not disclose that the step of transmitting compilation information includes transmitting compilation information from a cellular phone to a second subsystem. However, Brewer in a method step for downloading executables analogous to that of Ishizuka's method teaches the transmitting of compilation information from a cellular phone to the second subsystem (col. 1, lines 27-67). The same reasons used to reject claim 4 above by virtue of obviousness still apply here.

As per claim 20, and with respect to the method of compilation of claim 19 above, Ishizuka does not disclose the same step limitations set forth and addressed by the combination of Ishizuka and Brewer in claim 4 above; therefore, with reference to the rejection set forth in that claim, it would have been obvious.

As per claim 21, and in reference to claim 20 above, Ishizuka does not disclose the same step limitations set forth and addressed by the combination of Ishizuka and Brewer in claim 5 above; therefore, with reference to the rejection set forth in that claim, it would have been obvious.

As per claim 37, and with respect to the computer system of claim 34 above, Ishizuka does not disclose the same step limitations set forth and addressed by the combination of Ishizuka and Brewer in claim 4 above; therefore, it would have been obvious.

As per claim 38, and in reference to claim 37 above, Ishizuka does not disclose the same step limitations set forth and addressed by the combination of Ishizuka and Brewer in claim 5 above; therefore, it would have been obvious.

As per claim 51, with respect to the offloading compilation apparatus of claim 48 above, Ishizuka does not disclose the same step limitations set forth and addressed by the combination of Ishizuka and Brewer in claim 4 above; therefore, it would have been obvious.

As per claim 52, and in reference to claim 51 above, Ishizuka does not disclose the same step limitations set forth and addressed by the combination of Ishizuka and Brewer in claim 5 above; therefore, it would have been obvious.

As per claim 59, and with respect to the computer system of claim 56 above, Ishizuka does not disclose the same step limitations set forth and addressed by the combination of Ishizuka and Brewer in claim 4 above; therefore, it would have been obvious.

As per claim 60, and in reference to claim 59 above, Ishizuka does not disclose the same step limitations set forth and addressed by the combination of Ishizuka and Brewer in claim 5 above; therefore, it would have been obvious.

Response to Arguments

6. Applicant's arguments filed 09/05/2003 have been fully considered but they are not persuasive. The following are the reasons therefor.

(A) Applicants has submitted that Examiner "acknowledges that '635 patent does not explicitly specify ... machine-executable code" and that the "first subsystem cannot possibly transmit ... machine-executable code required to the second subsystem" (Applicant's Remarks, p. 13, 2nd para).

First, Examiner maintains that something is being not explicitly specified can also mean that it has been implicitly disclosed or implied. The reference as used shows clear hints about the format in which the object code is to be delivered, i.e. an executable form in the client

subsystem in view of the cited portions in the references. As for example, the 'EXECUTABLE FORM: a.out' in Fig. 8 teaches or implies the execution of an executable to yield an a.out; and one skilled in the art would recognize by 'a.out' a form of default output file when executing a program like C, as mentioned in Fig. 8 in block S3. Even though Ishizuka keeps mentioning about delivering an object file, the intention to make such file a machine executable is clear, if not telling that by object file, Ishizuka already meant a machine-executable file per se, because the term 'object code' is not tightly defined and therefore loosely employed as might be the case. Because there is no explicit disclosure by Ishizuka that the translated and linked object file is actually the machine-executable code, Examiner has used the motivation to modify Ishizuka in a 103(a) rejection that would otherwise very well be a 102(b) by virtue of the above-mentioned implicit disclosure. Hence, the current rejection also allows the scenario in which the delivered code is not yet in a readily machine-executable form, in which case an obvious motivation to modify has been given as in the rejection. But such scenario instance is technically hypothetical and/or provided for the sake of arguments. The fact that such object file has been linked from libraries as depicted by Ishizuka (col. 6, lines 15-26) clearly describes the conventional process by which compiled object modules are linked into a form of machine-specific code that requires no further translation.

Second, in regard to the 'compilation instructions related to the particular machine-executed code required by the first subsystem', the current rejection shows that the language name, the compile command, the machine type, host name, client machine name and library-installed machine information as gathered by the client machine in order to be sent to the compiling server are equivalent to what the claim requires. As cited, the so-called 'instructions

related to a particular machine-executable code' by Ishizuka are first instructions stored in a compile command, source code; second, they are related to a particular machine type for which specific library-installed information are gathered and for which a host client name or type has been furnished; and third they are targeted for execution in an environment specific to the requesting client machine based on above specifications provided to the compiler-installed server. Examiner does not see how a library-installed information specified by machine type and host name; language name, and compile command in combination are any distinct from 'instructions related to a particular machine-executable code' when the intention to deliver compiled code for execution in the requesting machine is evident in Ishizuka's method, notwithstanding the fact that the machine-executable form of the compiled code delivered back to the requesting client machine has been discussed above. The above observations only make use of the extent to which the recited limitation has enabled one skill in the art to reasonably interpret; and as it is, Ishizuka has met the above limitation. What is described in details in the invention specifications (e.g. pg. 13, bottom) cannot be read into the claims; and even if they were, they are not far different from what Ishizuka has disclosed.

(B) As for the Applicant's assertion that the '635 patent only teaches a compilation request from the client side and a library-installed machine table on the server side (Applicant's Remarks, p. 13, bottom, pg. 14, top), the current rejection now points out that the request by the client machine actually includes one part to gather information from another server, and one part to deliver the compilation information to a second server for compilation. The scenario is that the so-called 'instructions related to a particular machine-executable code' are collected on the requesting client first, and then forwarded to the compiler-installed host. In other words, all the

information/instructions related to a specific machine are provided by the first subsystem and forwarded to the second subsystem to enable the compilation and linking process to be performed by the latter. The compilation instructions thus transmitted are disclosed by Ishizuka, depicted in the rejection, and clarified in section (A) above.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (703)305-7207. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703)305-9662.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306 (for formal communications intended for entry)

or: (703) 746-8734 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA. , 22202. 4th Floor(Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

VAT
December 4, 2003

KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100